

Article 15. Applications and Procedures

16-1501. INITIATION - WHO MAY APPLY.

- 1501.1 Application for a zoning text amendment may be filed only by the Governing Body or Planning Commission.
- 1501.2 An application for rezoning to a conventional zoning district may be filed by the Governing Body, the Planning Commission, the landowner, or the landowner's agent.
- 1501.3 An application for an appeal to the Board of Zoning Appeals may be filed by any person aggrieved, or by any officer of the City or any governmental agency or body affected by any decision of an official administering the provisions of this ordinance.
- 1501.4 All other applications provided for in this chapter may only be filed by the landowner or the landowner's agent.
- 1501.5 All applications shall be made on forms prescribed by the City and available in the Community Development Department.

16-1502. APPLICATION FEES. Fees for all applications provided for in this chapter shall be established by the Governing Body by resolution.

16-1503. APPLICATION - PROOF OF OWNERSHIP AND/OR AUTHORIZATION OF AGENT.

- 1503.1 Where an application has been filed by, or on behalf of, a landowner, an affidavit of ownership shall be submitted to the City.
- 1503.2 Where an application has been filed by an agent of a landowner, an affidavit of the landowner establishing the agent's authorization to act on behalf of the landowner shall also be submitted.
- 1503.3 The affidavits required by this section shall be on forms prescribed by the City or in such form as is acceptable to the Community Development Director, and shall be submitted at the time of filing the application.

16-1504. PRE-APPLICATION CONFERENCE. A pre-application conference with City staff may, at the discretion of the Community Development Director, be required prior to submission of any application for a rezoning request, special use permit, conditional use permit, preliminary development plan or preliminary plat. The purpose of this conference shall be to: acquaint the applicant with the procedural requirements of this ordinance; provide for an exchange of information regarding the proposed development plan and applicable elements of this ordinance, the community development plan and other development requirements; advise the applicant of any public sources of information that may aid the application; identify policies and regulations that create opportunities or pose significant restraints for the proposed development; review any proposed concept plans and consider opportunities to increase development benefits and mitigate undesirable project consequences; and permit staff input into the general design of the project.

16-1505. SUBMISSION OF TECHNICAL STUDIES.

1505.1 The Community Development Director may require applicants for rezoning requests, special use permits, conditional use permits, preliminary development plans, site plans or preliminary plats to submit such technical studies as may be necessary to enable the Planning Commission or Governing Body to evaluate the application. Examples of technical studies that may be required shall include, but not be limited to, traffic studies, engineering studies, geologic or hydro-geologic studies, flood studies, environmental impact assessments, noise studies, market studies, or economic impact reports. The persons or firms preparing the studies shall be subject to the approval of the Community Development Director. The costs of all studies shall be borne by the applicant. Any decision of the Community Development Director to require any such study or to disapprove the persons or firms selected by the applicant to perform the study may be appealed to the Planning Commission. The decision of the Planning Commission on any such appeal shall be final.

1505.2 Notwithstanding the fact that the Community Development Director did not require submission of any technical studies in support of the application, either the Planning Commission or the Governing Body may require the submission of such studies prior to taking action on the application. In such case, the persons or firms selected to perform the studies shall be subject to the approval of the entity requesting that the studies be performed. Any decision of the Planning Commission or the Governing Body to require that studies be performed or to disapprove the persons or firms selected by the applicant to perform the studies shall be final.

16-1506. WHEN AN APPLICATION IS DEEMED COMPLETE. No application shall be deemed complete until all items required to be submitted in support of the application have been submitted subject to the provisions of this chapter.

16-1507. APPLICATION SUBMISSION DEADLINES. The Community Development Director or the Planning Commission may administratively provide for submission deadlines for materials required in support of any application provided for in this chapter. Compliance with such deadlines shall generally be required in order to have the application placed on an agenda to be heard by the Planning Commission. At the discretion of the Planning Commission Chairman, non-agenda items may be brought before the Planning Commission for consideration, provided that the Planning Commission in its sole discretion may refuse to hear non-agenda items. The Planning Commission may consider items not on the agenda if a majority of the commission members vote approval to do so.

16-1508. PUBLIC HEARING NOTICES. Unless otherwise specifically provided for in this chapter, all publication notices for public hearings required by this chapter shall be published in one issue of the official City newspaper, and at least 20 days shall elapse between the date of such publication and the date set for hearing. For purposes of this section, in computing the time both the day of publication and the day of the public hearing shall be excluded. The publication notice shall fix the time and place for the public hearing. When the hearing is for consideration of changes in the text of this ordinance, or a general revision of the boundaries of zoning districts, the notice shall contain a statement regarding the proposed changes in the ordinance or in the boundaries of the zone or district. If the hearing is on an application which concerns specific property, the property shall be designated by a general location description and/or general street location.

16-1509. NOTICE TO SURROUNDING PROPERTY OWNERS. Unless otherwise specifically provided in this chapter, whenever notice to surrounding property owners is required for consideration of an application, such notice shall be given as follows: Notices shall be mailed at least 20 days prior to the hearing, thus notifying such property owner of the opportunity to be heard. Notice shall be mailed to all owners of record of land within 200 feet of the property subject to the application. If the subject property is located adjacent to unincorporated property outside the City's limits, then the area of notification shall be extended to include all unincorporated land within 1000 feet of the subject property. Such mailed notice shall be given by first class mail and shall be in letter form stating the time and place of the hearing, a general description of the proposal, a general street location of the property subject to the proposed change, and a statement explaining that the public may be heard at the public hearing. In cases of applications for which protest petitions may be submitted, the notice shall also contain a statement explaining that property owners required to be notified by this Section shall have the opportunity to submit a protest petition, in conformance with this ordinance, to be filed with the office of the City Clerk within 14 days after the conclusion of the public hearing. Mailed notices shall be addressed to the owners of the property, as provided by the applicable department of Johnson County, and not to mere occupants thereof. When the notice has been properly addressed and deposited in the mail, failure to receive mailed notice shall not invalidate any action taken on the application.

16-1510. POSTING OF SIGNS FOR REZONING REQUESTS, SPECIAL USE PERMITS, AND CONDITIONAL USE PERMITS. In the case of rezoning requests, conditional use permits and special use permits, the applicant shall place a sign on the property informing the general public that a public hearing will be held at a specific time and place concerning proposed changes in use. The sign shall be furnished by the City to the applicant, and the applicant shall maintain the sign for at least the 20 days immediately preceding the date of the public hearing. The sign shall be firmly affixed and attached to a wood or metal backing or frame and placed within five feet (5') of the street right-of-way line in a central position on the lot, tract, or parcel of land so that the sign is free of any visual obstructions surrounding the sign. If a lot, tract, or parcel of land is larger than five (5) acres, a sign as required herein shall be placed so as to face each of the streets abutting thereto. The applicant shall file an affidavit with the Secretary of the Planning Commission at the time of the public hearing verifying that the sign has been maintained and posted as required by this ordinance and applicable resolutions. Failure to submit the affidavit prior to the hearing may result in a continuance of the hearing. The sign may be removed at the conclusion of the public hearing and must be removed at the end of all proceedings on the application or upon withdrawal of the application.

16-1511. PUBLIC HEARING PROCESS. When the consideration of an application requires a public hearing, the following provisions shall apply:

- 1511.1 The purpose of a public hearing is to allow the applicant and all other interested parties a reasonable and fair opportunity to be heard, to present evidence relevant to the application.
- 1511.2 An accurate written summary of the proceedings shall be made for all public hearings.
- 1511.3 The Governing Body, Planning Commission, and Board of Zoning Appeals may adopt rules of procedure for public hearings by resolution or bylaws.
- 1511.4 If an item which is subject to a public hearing is continued or otherwise carried over to a subsequent date and the public hearing has been opened, then the public hearing shall not be deemed concluded until the date on which the hearing is formally closed and the Planning Commission has taken action on the application. No additional notices shall be required once the public hearing is opened.

16-1512. CONTINUANCES OF APPLICATIONS.

- 1512.1 Any applicant or authorized agent shall have the right to one continuance of a public hearing before the Planning Commission or Board of Zoning Appeals, provided that a written request therefor is filed with the Secretary of the Planning Commission or Board of Zoning Appeals at least two business days prior to the date of the scheduled hearing. In any event, the applicant shall cause written notice of the rescheduled public hearing date to be sent to surrounding property owners in the same manner and in accordance with the same time schedule as required for notice of the original hearing.
- 1512.2 The Planning Commission, Board of Zoning Appeals, or the Governing Body may grant a continuance of an application for good cause shown. The record shall indicate the reason such continuance was made and any stipulations or conditions placed upon the continuance. All motions to grant a continuance shall state the date on which the matter is to be heard. A majority vote of those members of the official body present at the meeting shall be required to grant a continuance. The Planning Commission or Board of Zoning Appeals shall not continue an application for more than six (6) months from the published public hearing date.

16-1513. CONSIDERATION OF TEXT AMENDMENTS, REZONING REQUESTS, SPECIAL USE PERMITS AND CONDITIONAL USE PERMITS - PROCESS.

- 1513.1 Public hearing required: Consideration of zoning text amendments, rezoning requests, special use permits, and conditional use permits shall require a public hearing before the Planning Commission following publication notice as provided in Sections 16-1508 through 16-1510.
- 1513.2 Action by Planning Commission: A vote either for or against a zoning text amendment, rezoning request, special use permit, or conditional use permit by a majority of all of the Planning Commissioners present and voting shall constitute a recommendation of the Planning Commission. If a motion for or against the zoning text amendment, rezoning request, special use permit, or conditional use permit fails to receive a majority vote of the Planning Commission, the Planning Commission may entertain a new motion. A tie vote of the Planning Commission on any motion shall be deemed to be a failure of the Planning Commission to make a recommendation. The Planning Commission's recommendation to approve or disapprove shall be submitted to the Governing Body for action, accompanied by an accurate written summary of the hearing proceedings. A recommendation to approve a zoning text amendment shall be submitted in the form of an ordinance.
- 1513.3 Governing Body action upon Planning Commission recommendation of a zoning text amendment, rezoning request, special use permit, or conditional use permit: The Governing Body may (1) approve such recommendations by the adoption of the same by ordinance or resolution; (2) override the Planning Commission's recommendation by a two-thirds (2/3) majority vote of the membership of the Governing Body; or (3) return the same to the Planning Commission for further consideration, together with a statement specifying the basis for the Governing Body's failure to approve or disapprove.

- 1513.4 Applications returned to Planning Commission: Upon receipt of an application returned by the Governing Body, the Planning Commission may resubmit its original recommendation giving the reasons therefor or submit a new or amended recommendation. If the Planning Commission fails to deliver its recommendation to the Governing Body following the Planning Commission's next regular meeting after the receipt of the Governing Body's report, the Governing Body may consider such course of inaction on the part of the Planning Commission as a resubmission of the original recommendation and proceed accordingly.
- 1513.5 Reconsideration by Governing Body: Upon receipt of the Planning Commission's recommendation after reconsideration, the Governing Body, by a simple majority thereof, may take such action as it deems appropriate, including approval, disapproval or amendment of the application and adoption as amended, or the Governing Body may return the same to the Planning Commission for further consideration. Unless the Governing Body returns the application to the Planning Commission for further consideration or continues its consideration of the matter to another date, the Governing Body's action on the application shall constitute a final decision.

16-1514. PROTEST PETITION PROCEDURES.

- 1514.1 A protest against any rezoning request, conditional use permit, or special use permit shall be filed in the City clerk's office not later than (4:00 PM) on the fourteenth (14th) day following the date of the conclusion of the Planning Commission's public hearing held pursuant to the publication notice. For the purposes of calculating the fourteen (14) day period, weekends and holidays shall be counted. However, if the last day is a non-business day for City offices, then the filing deadline shall be 4:00 PM on the next regular business day.
- 1514.2 In order to be considered a "valid" protest, a protest petition must be timely filed and duly signed and verified by the owners of record of twenty (20) percent of the total area required to be notified, excepting public streets and rights-of-way and the subject property, located within or without the corporate limits of the City, in accordance with Section 16-1509.
- 1514.3 Verification of the genuineness and correctness of the signatures on the protest petition, either individually or collectively, shall be made by the Community Development Director.
- 1514.4 Once a valid protest petition has been filed with the City, it may not be withdrawn unless every person that signed the original petition signs a verified affidavit which states and fully explains the rights being waived by the withdrawal of the protest petition. Such affidavits of withdrawal must be filed with the City clerk on or before the last regular business day preceding the Governing Body meeting for which the protest applies.
- 1514.5 Adoption where protest filed: Where a valid protest petition has been filed, an ordinance approving the rezoning request, conditional use permit, or special use

permit shall not be passed except by the affirmative vote of at least three-quarters (3/4) of the members of the Governing Body.

16-1515. CRITERIA FOR CONSIDERING APPLICATIONS. In considering any application for rezoning request, conditional use permit, or special use permit, the Planning Commission and the Governing Body may give consideration to the criteria stated below, to the extent they are pertinent to the particular application. In addition, the Planning Commission and Governing Body may consider other factors which may be relevant to a particular application.

- 1515.1 The conformance of the proposed use to the Community Development Plan and other adopted planning policies.
- 1515.2 The character of the neighborhood including, but not limited to: land use, zoning, density (residential), architectural style, building materials, height, structural mass, siting, open space, and floor-to-area ratio (commercial and industrial).
- 1515.3 The zonings and uses of nearby properties, and the extent to which the proposed use would be in harmony with such zonings and uses.
- 1515.4 The suitability of the property for the uses to which it has been restricted under the applicable zoning district regulations.
- 1515.5 The length of time the property has remained vacant as zoned.
- 1515.6 The extent to which approval of the application would detrimentally affect nearby properties.
- 1515.7 The extent to which the proposed use would substantially harm the value of nearby properties.
- 1515.8 The extent to which the proposed use would adversely affect the capacity or safety of that portion of the road network influenced by the use, or present parking problems in the vicinity of the property.
- 1515.9 The extent to which the proposed use would create excessive air pollution, water pollution, noise pollution, or other environmental harm.
- 1515.10 The economic impact of the proposed use on the community.
- 1515.11 The gain, if any, to the public health, safety, and welfare due to denial of the application as compared to the hardship imposed upon the landowner, if any, as a result of denial of the application.
- 1515.12 The recommendation of professional staff.

16-1516. ADEQUATE PUBLIC FACILITIES AND SERVICES.

- 1516.1 In order to prevent the premature development of land which might pose a threat to the health, safety, or general welfare of the community at large or the occupants of land in the particular area of the City, it shall be the policy of the City that no application for special use permit, conditional use permit, site plan,

preliminary or final development plan, or preliminary or final plat shall be approved unless public facilities and services are available, or will be provided as a condition of the application, which are adequate to serve the development.

- 1516.2 At the time of submittal of a site plan, final development plan, or final plat application, the applicant shall submit proof that an adequate road network; storm water drainage system; and water, sewer, fire, gas and electric services are presently available to the subject property. If adequate public facilities and services are not presently available at the time of submittal of application for a site plan, final development plan, or final plat, or are not planned for the near future to appropriately serve the proposed development as determined by the affected utility company or agency, the site plan, final development plan, or final plat may be denied.
- 1516.3 When adequate public facilities or services are not in place or scheduled to be constructed in the near future of the consideration of the application, the City may make approval of the application subject to adequate facilities being provided as described in subsection D. In determining whether such conditional approval is appropriate, the Planning Commission and the Governing Body shall consider the following factors:
- A. The nature, extent, and estimated cost of the required facilities or services;
 - B. The proposed method of providing the adequate facilities;
 - C. The extent to which other property owners would be required to share in the costs of the improvements; and
 - D. Any public amenities to be provided by the development, such as the donation or dedication of land or improvements for public facilities or services including, but not limited to, water, sewers, or streets.
- 1516.4 An applicant may propose to provide adequate facilities as described in subsection B above by providing the facilities or services at their own expense or by agreeing with the City to fund all or part of the costs of such improvements. The intent of either method shall be to offset fairly and equitably of the costs of the improvements or any higher net public costs resulting from the impact of the development. In any computations of additional net public costs, the differences between otherwise anticipated public costs and development impact costs, and otherwise anticipated public revenue and development impact revenues shall be considered, among other factors. The Planning Commission or Governing Body may require expert determination and analysis of public costs and revenues and the development's impact thereon.
- 1516.5 In the event that an application does not establish adequacy of facilities and services pursuant to the criteria set forth in subsection B above, and the applicant does not propose to provide the adequate facilities and services, approval of the application may occur only upon express findings that, due to the nature of the proposed development, the occupants of the development will not be endangered and the inadequacy of a particular facility or service will not pose a threat to the health, safety, or general welfare of nearby properties or the community at large. In cases where a prior development application has

established the adequacy of public facilities, or where the adequacy of public facilities is evident based upon the location of the property, the Planning Commission may waive the requirement that the applicant provide assurances of any or all public facilities or services as part of the application process.

16-1517. LESSER CHANGE TABLE. The Planning Commission may recommend and the Governing Body may adopt a change in zoning which is a lesser change (more restrictive) than the one requested for the entire property or a portion of the property, provided that the more restrictive district is in the same residential, commercial, or industrial grouping as the district for which the change was requested. The adoption of a lesser district shall only be approved with the consent of the applicant. A change to a planned district may not be approved if the application is for a conventional district. Applications for District A (Agricultural) or REC (Recreational) may not be changed to another category unless a new application is filed. A planned district shall be equally restrictive to its equivalent district. The Governing Body may refer any such application back to the Planning Commission for further consideration if, in its judgment, it deems such referral advisable and in the best interest of the public and the applicant.

LESSER CHANGE TABLE

Most Restrictive → → → → → → → Least Restrictive
RESIDENTIAL RE, R-1, R-2, R-3, R-4, R-5
COMMERCIAL C-O, CO-A, C-1, C-2, C-3
INDUSTRIAL M-1, M-2

16-1518. REZONING APPLICATIONS - SUBMISSION REQUIREMENTS. The following items shall be submitted in support of any application for rezoning:

- 1518.1 Legal description of the property.
- 1518.2 A list of all owners of record of land within 200 feet of the property subject to the application, as provided by the applicable department of Johnson County. If the subject property is located adjacent to unincorporated property outside the City's limits, then the area of notification shall be extended to include all unincorporated land within 1000 feet of the subject property.
- 1518.3 A statement of the reasons why rezoning is being requested.
- 1518.4 In the case of an application for rezoning to a planned zoning district, a preliminary development plan.
- 1518.5 All studies as may reasonably be required by the Community Development Director pursuant to Section 16-1505.
- 1518.6 Assurances of adequate public facilities as required by Section 16-1516.

16-1519. SPECIAL USE PERMIT AND CONDITIONAL USE PERMIT APPLICATIONS - SUBMISSION REQUIREMENTS. The following items shall be submitted in support of an application for a special use permit:

- 1519.1 Legal description of the property.
- 1519.2 A list of all owners of record of land within 200 feet of the property subject to the application, as provided by the applicable department of Johnson County. If the subject property is located adjacent to unincorporated property outside the City's

limits, then the area of notification shall be extended to include all unincorporated land within 1000 feet of the subject property.

1519.3 A statement of the reasons why the special use permit or conditional use permit is being requested.

1519.4 A site plan pursuant to Section 16-1521.

1519.5 All studies as may reasonably be required by the Community Development Director pursuant to Section 16-1505.

1519.6 Assurance of adequate public facilities as required by Section 16-1516.

16-1520. LIMITATION ON SUCCESSIVE APPLICATIONS.

1520.1 No application for rezoning request, special use permit, or conditional use permit by a landowner or a landowner's agent shall be accepted if any application for substantially the same property has been filed and advertised for public hearing within the preceding twelve (12) months.

1520.2 For purposes of subsection A, the preceding 12-month period shall be determined as follows:

A. If there was final action (either approval or denial) on the prior application, the 12-month period shall run from the date of such action.

B. If the prior application was withdrawn after being advertised for public hearing, the 12-month period shall run from the date the application was withdrawn.

1520.3 The Community Development Director shall determine if an application concerns "substantially the same property" as a prior application. The landowner may appeal any such determination to the Planning Commission.

1520.4 The Governing Body may waive the limitation in this section for good cause shown.

16-1521. SITE PLAN APPROVAL.

1521.1 The purpose and intent of requiring site plan approval is to encourage the compatible arrangement of buildings, off-street parking, lighting, landscaping, pedestrian walkways and sidewalks, ingress and egress, and drainage on the site and from the site, any or all of these, in a manner that will promote safety and convenience for the public and will preserve property values of surrounding properties.

1521.2 After the effective date of this ordinance, no property which has a conventional zoning district classification or which requires approval of a site plan may be developed or significantly redeveloped without a site plan which has been submitted to and approved by the Planning Commission, or the Community Development Director indicating that site will conform to the current applicable requirements of City code. Significant redevelopment means alterations or

changes to property in such manner that one or more of the following is applicable:

- A. The development results in the construction of a building, structure, or addition that increases the gross square footage of the existing development by more than twenty five percent (25%).
- B. The estimated construction costs of all improvements to the development exceed twenty five percent (25%) of the most recent appraised fair market value of the existing property as determined by the County Appraiser.
- C. The construction or paving of a parking lot or facility which covers ground previously not used as a parking lot or facility, or the construction or paving of any parking lot or facility which does not conform to City pavement.
- D. The intensification of property by a change of use which increases off-street parking requirements pursuant to Article 10 of this Chapter.

1521.3 Approved site plans are valid for two (2) years. The Planning Commission may grant time extensions up to one (1) additional year. The property owner may appeal disapproval or conditions of approval of a site plan by the Planning Commission to the Governing Body by filing a notice of appeal with the Community Development Director within ten (10) days following the Planning Commission's decision. An approved site plan shall be required prior to the issuance of a building permit provided that single-family and two-family (duplex) units, and accessory buildings are hereby expressly exempted

1521.4 Modifications to a valid site plan may be approved administratively by the Community Development Director if the changes proposed do not significantly deviate from the approved site plan. The following changes are not considered significant changes to the site plan:

- A. An increase in floor area or number of dwelling units not exceeding five (5) percent.
- B. Substitution of landscape materials provided that the new materials are the same general size and type.
- C. Minor changes to elevation, building materials, parking lot design, screening fences or walls, building location, etc., that would improve the site or are needed because of circumstances not foreseen at the time the site plan was approved by the Planning Commission.

16-1522. SITE PLAN APPROVAL CRITERIA. The Planning Commission shall review the site plan to determine if it demonstrates a satisfactory quality of design in the individual buildings and in its site, the appropriateness of the building or buildings to the intended use, and the aesthetic integration of the development into its surroundings. Satisfactory design quality and harmony will involve among other things:

1522.1 The site is capable of accommodating the building(s), parking areas and drives with appropriate open space.

1522.2 The plan is consistent with good land planning, good site engineering design principles, and good landscape architectural principles.

- 1522.3 An appropriate use of quality materials and harmony and proportion of the overall design.
- 1522.4 The architectural style should be appropriate for the project in question and compatible with the overall character of the neighborhood.
- 1522.5 The siting of the structure on the property, as compared to the siting of other structures in the immediate neighborhood.
- 1522.6 The bulk, height and color of the proposed structure as compared to the bulk, height and color of other structures in the immediate neighborhood.
- 1522.7 Landscaping to City standards shall be required on the site and shall be in keeping with the character or design of the site.
- 1522.8 Ingress, egress, internal traffic circulation, off-street parking facilities and pedestrian ways shall be so designed as to promote safety and convenience, and shall conform to approved City standards.
- 1522.9 The plan represents an overall development pattern that is consistent with the Community Development Plan, the Official Street Map, and other adopted planning policies.
- 1522.10 Right-of-way for any abutting thoroughfare has been dedicated pursuant to the provisions of Chapter 17.

16-1523. AGREEMENT NOT TO PROTEST FORMATION OF A BENEFIT DISTRICT. As an alternative to the construction of a public improvement pursuant to a site plan or final development plan requirement, the Governing Body may accept from the applicant an executed Agreement Not to Protest Formation of a Benefit District for improvements including, but not limited to, streets, sidewalks, and utilities. An executed Agreement Not to Protest Formation of a Benefit District for improvements shall contain provisions whereby the applicant, and all successors in title to the applicant, are bound not to protest inclusion of the legally described property in a properly constituted benefit district, pursuant to K.S.A. 12-6a01 et seq., and amendments thereto, for the required improvement. An executed Agreement Not to Protest Formation of a Benefit District for improvements shall be recorded at the Register of Deeds.

16-1524. SITE PLANS AND FINAL DEVELOPMENT PLANS - CONTENTS AND SUBMISSION REQUIREMENTS. All site plans and final development plans are to be drawn to a standard engineer's scale. The actual scale used will depend on the development. Seven (7) copies of the site development plan shall be submitted in support of the application. In addition, one (1) copy of the proposed site plan and one (1) copy of the proposed building elevations, reduced onto eight and one-half inch (8½") by eleven inch (11") bond paper shall be submitted with the application. The Community Development Director may administratively waive some of the plan content requirements depending on the complexity of the proposed development or redevelopment project.

The site plan or final development plan shall contain the following information:

- 1524.1 Existing uses, activities and influences on the site and adjacent properties, within one hundred (100) feet:

- A. All public streets and easements which are of record. Sufficient dimensions and information to indicate existing and proposed rights-of-way; pavement width and type; number of lanes; location size and radii of all existing and proposed medians and median breaks; sidewalks; and existing and proposed driveway locations, widths, curb cuts and radii (to the degree that they appear on plans on file with the City).
- B. Any buildings which exist or are proposed to the degree that their location and size are shown on plans on file with the City. One (1) and two (2) family residential buildings may be shown in approximate location and general size and shape. Indicate the status of structures on the site (i.e., vacant, to be removed, good condition, interior remodel only, new, as is, etc.).
- C. Existing and proposed finished grades or contours at two foot (2') intervals. Identify any land areas within the one hundred (100) year floodplain. Existing streams, drainage channels, and other bodies of water. All existing and proposed slopes in excess of ten percent (10%).
- D. The location, size, cross-section and calculation of any drainage structures, such as culverts, paved or earthen ditches or storm water sewers and inlets.
- E. The locations, massing, and patterns of existing vegetation. Indicate proposed on-site preservation.
- F. Existing ownership, zoning, and land use of site and surrounding properties.

1524.2 Proposed development of the site including:

- A. Proposed locations of buildings and other structures, parking areas, driveways, walks, noise generation sources (refrigeration units, mechanical equipment, loading docks, etc.) screening, drainage control, landscaping and proposed utility connection layouts for water and sewer. Sufficient dimensions to indicate setbacks, relationships between buildings, property lines, intersections, easements, parking areas, and other elements of the plan.
- B. List the type and thickness of surfacing and base course proposed for all parking, loading and walkway areas, per City specifications.
- C. Indicate the locations, heights, and materials for all screening wall and fences, existing and proposed.
- D. Building elevations depicting the architectural style, size, exterior construction materials, and colors of the buildings proposed. When several building types are proposed, such as one and two unit dwellings, apartments, and commercial buildings, a separate sketch shall be prepared for each type. If an architectural theme is planned, elaboration on the intent and extent of the scheme and details shall be provided. Elevations shall be drawn to a standard architectural scale and dimensions provided to determine relationships between various elements, building height, proportion, adequate screening of mechanical equipment, etc..

- E. Show the location and method of screening of outdoor trash storage areas.
- F. Show the proposed location, dimensions, colors, materials, and elevations of all exterior signs, including monument signs.
- G. Show the location, height, and type of all proposed lighting facilities.
- H. A schedule shall be included indicating total floor areas, dwelling units, land areas, required and proposed parking spaces, and all other quantities relative to the submitted plan that are required to determine compliance with this ordinance.
- I. The general extent and character of all proposed landscaping noting common and botanical names and planting size, and a landscaping plan pursuant to Article 11 of this Chapter.
- J. Existing and proposed utility connection layouts such as power lines, gas lines, water lines, sanitary sewer lines, and storm drainage systems and identify sizes, materials, flowline elevations, and the types of construction.

1524.3 Other relevant information including:

- A. Name and address of the landowner.
- B. The boundary lines of the area included in the site plan, including bearings, dimensions, and reference to a section corner, quarter corner, or point on a recorded plat.
- C. North arrow and scale (standard engineer for site development plan and standard architectural for building elevations/details).
- D. A small key map indicating the location of the property within the City.
- E. Name and address of the architect, landscape architect, planner, engineer, surveyor, or other person involved in the preparation of the plan.
- F. Date of preparation of the plan.
- G. A copy of all covenants and restrictions applicable to the development, if required.
- H. Evidence of the establishment of the agency for the ownership and maintenance of any common open space for a planned development and all assurances of the financial and administrative ability of such agency.

1524.4 All studies as may reasonably be required by the Community Development Director pursuant to Section 16-1505.

16-1525. PRELIMINARY DEVELOPMENT PLAN - SUBMISSION REQUIREMENTS. Due to the nature of planned districts, the preliminary site development plan may be more schematic and general in nature, addressing the listed items in Section 16-1524 conceptually.

16-1526. CONSIDERATION OF PRELIMINARY DEVELOPMENT PLANS. When property is requested to be rezoned to a planned zoning district, the preliminary development plan shall be considered and approved as part of the rezoning application. When property has been approved for rezoning to a planned zoning district, changes in the preliminary development plan may be made only after approval of a revised preliminary development plan. Changes in the preliminary development plan which are not substantial or significant may be approved by the Community Development Director, and disapproval of such changes by the Community Development Director may be appealed to the Planning Commission. Substantial or significant changes in the preliminary development plan may only be approved after rehearing by the Planning Commission and Governing Body; such rehearing shall be subject to the notice and protest provisions set forth in Sections 16-1508 through 16-1510.

16-1527. SUBSTANTIAL CHANGES.

1527.1 For purposes of this Section, "substantial or significant changes" in the preliminary development plan shall mean any of the following:

- A. Increases in the density or intensity of residential uses by more than five percent (5%).
- B. Increases in the total floor areas of all nonresidential buildings covered by the plan by more than ten percent (10%).
- C. Increases of lot coverage by more than five percent (5%).
- D. Increases in the height of any buildings by more than ten percent (10%).
- E. Changes of architectural style which will make the project less compatible with surrounding uses.
- F. Changes in ownership patterns or stages of construction that will lead to a different development concept.
- G. Changes in ownership patterns or stages of construction that will impose substantially greater loads on streets and other public facilities.
- H. Decreases of any peripheral setbacks by more than twenty-five percent (25%).
- I. Decreases of areas devoted to open space by more than five percent (5%) or the substantial relocation of such areas.
- J. Changes of traffic circulation patterns that will affect traffic outside of the project boundaries.
- K. Modifications or removal of conditions or stipulations to the preliminary development plan approval.

- 1527.2 The determination of whether a proposed revised preliminary development plan contains "substantial or significant changes" shall be made by the Community Development Director within five (5) business days following the filing of the application. The determination of the Community Development Director may be appealed to the Planning Commission, whose decision shall be final.
- 1527.3 In determining whether to approve an application for a revised preliminary development plan, the Planning Commission or Governing Body shall apply the criteria set forth in Section 16-1522. In the event that the application for the revised preliminary development plan is denied, the previously approved preliminary development plan will remain in effect.

16-1528. CONSIDERATION OF FINAL DEVELOPMENT PLANS.

- 1528.1 No property which has a planned zoning district classification or which requires approval of a final development plan may be developed or significantly redeveloped without a final development plan having been submitted to and approved by the Planning Commission indicating that the site will conform to the current applicable requirements of City code. Final development plans for planned zoning districts which contain no modifications or additions from the approved preliminary development plan shall be approved by the Planning Commission if the Commission determines that the landscaping and screening plan is adequate and that all other submission requirements have been satisfied.
- 1528.2 A final development plan which contains modifications from the approved preliminary development plan, but is in substantial compliance with the preliminary plan, may be approved by the Planning Commission without a public hearing provided that the commission determines that the landscaping and screening plan is adequate and that all other submission requirements have been satisfied. For purposes of this Section, lack of "substantial compliance" shall have the same meaning as "substantial or significant changes" as set forth in Section 16-1527. Any determination made by the Planning Commission under this subsection shall be appealable to the Governing Body by the applicant within 10 days of the date of the Planning Commission determination.
- 1528.3 In the event of a determination that the proposed final development plan is not in substantial compliance with the approved preliminary development plan, the application may not be considered except at a public hearing, following publication notice and notice to surrounding property owners as provided in Sections 16-1508 through 16-1510.
- 1528.4 Revisions to approved final development plans which are insignificant in nature may be approved administratively by the Community Development Director. In no event may revisions to approved final development plans be approved administratively if the proposed revised final plan contains "substantial or significant changes" as defined in Section 16-1527.

16-1529. ABANDONMENT OF FINAL DEVELOPMENT PLAN. In the event that a plan or a section thereof is given final approval and thereafter the landowner shall abandon said plan or section thereof and shall so notify the City in writing or the landowner shall fail to commence the planned development within two (2) years after final approval has been granted, then such final approvals shall terminate and shall be deemed null and void unless such time period is extended

by the Planning Commission upon written application by the landowner. Whenever a final plan or section thereof has been abandoned as provided in this Section, no development shall take place on the property until a new final development plan has been approved.

16-1530. **CONDITIONAL APPROVALS.** When approving any application, the approving authority may stipulate that the approval is subject to compliance with certain specified conditions including, but not limited to, time of performance requirements, limitation on hours of operation, participation in transportation systems management programs, or participation in improvement districts or other programs for financing public facilities, etc..

16-1531. **WRITTEN FINDINGS.** Unless otherwise specifically provided in this ordinance, written findings are not required for a final decision on any application. However, any decision may be expressly made subject to the subsequent adoption of written findings and, in such cases, the decision shall not be considered final until such findings are adopted. When an appeal of any quasi-judicial decision has been filed in the district court of Johnson County pursuant of KSA 12-760 or KSA 60-2101(d) in cases where written findings have not been adopted, written findings shall be adopted by the approving authority within forty-five (45) days of service of the appeal on the City and thereafter shall be certified to the district court as part of the administrative record. The forty-five (45) day time period for adoption and certification of findings may be extended with the permission of the district court.

16-1532. **FINAL DECISION WHEN ORDINANCE REQUIRED.** In the case of approval of a zoning text amendment, rezoning request, special use permit, conditional use permit, or other application where adoption of an ordinance is required, the decision approving the application shall not be deemed to be final until the ordinance has been published in an official City newspaper. In all other cases, the decision shall be deemed final as of the date that the approving authority votes to approve or deny the application.

16-1533. **REVOCATION OF SPECIAL USE PERMITS AND CONDITIONAL USE PERMITS.**

1533.1 Any special use permit or conditional use permit granted under the authority of this chapter is subject to revocation for any or all of the following reasons:

- A. Non-compliance with any specified applicable performance standard requirements.
- B. Non-compliance with any special conditions imposed at the time of approval of the special use permit or conditional use permit.
- C. Violation of any provisions of the Code pertaining to the use of the land, construction or uses of buildings or structures, or activities conducted on the premises by the permittee or agents of the permittee.
- D. When conditions in the neighborhood have changed to the extent that approval of the permit would be clearly unwarranted if being applied for at the time of revocation.
- E. Violation of any other applicable Code provisions or any state or federal laws or regulations by the permittee or agents of the permittee, provided that such violations relate to the conduct or activity authorized by the permit or the qualifications of the permittee or its agents to engage in such conduct or activity.

1533.2 Revocation proceedings may be initiated by a majority vote of the Governing Body.

- A. The Governing Body shall hold a public hearing to consider the revocation of the special use permit or conditional use permit. The City shall give the permittee and landowner notice of the scheduled revocation hearing at least five (5) days prior to the date scheduled for such hearing. If the permittee and landowner are present at the meeting of the Governing Body at which the revocation proceedings are initiated, no further notice shall be required; otherwise, notice shall be given by personal service or certified mail, return receipt requested. If the notice cannot be delivered or is not accepted, notice may be given by publishing a notice of hearing in the official City newspaper and by posting a notice of hearing on the property at least five (5) days prior to the date scheduled for the hearing.
- B. No special use permit or conditional use permit shall be revoked unless a majority of the Governing Body is satisfied by a preponderance of the evidence that grounds for revocation exist. Any motion for the revocation of a special use permit or conditional use permit shall clearly state the grounds for revocation. In addition, when the basis for revocation is "changed conditions", revocation may only occur upon an explicit finding that revocation is necessary for the protection of the public health, safety, and welfare. Adoption of any motion to revoke a special use permit or conditional use permit may be made subject to subsequent adoption of written findings of fact and conclusions of law, at the discretion of the Governing Body.
- C. An appeal of any decision of the Governing Body to revoke a special use permit may be filed in the District Court of Johnson County, Kansas, pursuant to K.S.A. 12-760, or amendments thereto. Any appeal taken shall not suspend the order of revocation during the pendency of the appeal unless so ordered by the District Court.

16-1534. APPEALS OF FINAL DECISIONS. Except where this ordinance provides for an appeal to another quasi-judicial or administrative body, any person, official or agency aggrieved by a final decision on an application provided for in this ordinance desiring to appeal said decision shall file the appeal in the District Court of Johnson County with thirty (30) days of the making of the decision.